

REMARKS

Applicant respectfully requests reconsideration of this application in view of the foregoing amendments and the following remarks.

CLAIM STATUS

Claims 1-29 are pending in the application. Claims 1-14, 16-18, 20, 21, 23-25 and 27-29 are rejected. Claims 15, 19, 22 and 26 are indicated as including allowable subject matter and objected to as to form. Of the pending claims, claims 1, 3, 5, 7, 9, 11, 13, 16, 18, 20, 23, 25, 27-29 are independent in form.

Claims 1, 3-5 and 7-29 are herein amended.

Rejections Under 35 U.S.C. §102(b)

Claims 1-12 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,331,367 to Kawasaki et al. ("Kawasaki").

The inventions as recited in claims 1-12 are characterized, *inter alia*, in that the zooming speed is changed on the basis of the shutter speed (charge storage time). By virtue of this feature, the problem that the correcting operation of movement of the focal plane in zooming operation cannot follow the object when the charge storage time becomes long thereby resulting in the interval between the focus evaluation values becoming long, can be solved.

On the other hand, the cited reference Kawasaki, while also disclosing a structure where zooming operation is controlled on the basis of the charge storage time, has altogether different objects and application than the present invention.

To further clarify at least one distinction between Kawasaki and the present invention as claimed, Applicant has herein explicitly added the limitation to independent claims 1, 3, 5, 7, 9 and 11 that zoom speed is changed in accordance with shutter speed so that the

focusing operation is able to follow an object during the zooming operation. Applicant respectfully submits that at least this feature of the claimed present invention is not contemplated by Kawasaki.

Dependent Claims

Applicant has not independently addressed the rejections of the dependent claims included within claims 1-12 because Applicant believes that, as the independent claims from which the dependent claims depend are allowable for at least the reasons discussed *supra*, the dependent claims are allowable for at least similar reasons. Applicant however, reserves the right to address such rejections should such response be necessary.

Applicant respectfully submits that the invention as recited in amended claims 1-12 is neither anticipated by, nor rendered obvious in view of, the cited reference Kawasaki.

Rejections Under 35 U.S.C. §103(a)

Claims 13, 14, 16-18, 20, 21, 23-25 and 27-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over US-PGPUB 2002/010984 to Suda et al. ("Suda") in view of U.S. Patent No. 5,587,737 to Sekine et al. ("Sekine").

Applicant respectfully submits that the Examiner has not made a valid rejection here because, as will be explained in detail, under 35 USC §103 the Examiner's primary reference, Suda, is not available against this application.

Suda has an effective filing date of June 20, 1996 (before the filing date of the instant case) and was published as US 2002/0109784 on August 15, 2002 (after the filing date of the instant case).

Further, the present case is assigned of record to Canon Kabushiki Kaisha. Suda is also assigned to the same assignee as the instant case (see the parent case USP 6,373,524 of the cited Suda reference, of which the cited Suda reference is a divisional).

Thus, while Suda, on its face may qualify as prior art under §102(e), §103(c) precludes its use in this case. Section 103(c) expressly so provides in stating as follows:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Therefore, Suda cannot be used to reject the claims of this application.

Applicant accordingly respectfully requests that this rejection in view of Suda be withdrawn, rendering the so rejected claims allowable over the art of record.

Additionally, Applicant has taken this opportunity to amend the claims as indicated above (including claims 15, 19, 22 and 26 which were objected to as being dependent upon a rejected base claim, but otherwise containing allowable subject matter) to provide structural recitations of certain limitations of the various pending claims for additional clarity.

In view of the foregoing, Applicant respectfully submits that claims 1-29 as amended herein are thus allowable over the prior art of record, taken alone or in combination, and that the respective rejections be withdrawn and the application hereby placed in condition for allowance which action is earnestly solicited.

CONCLUSION

Accordingly, Applicant respectfully requests reconsideration and allowance of this application.

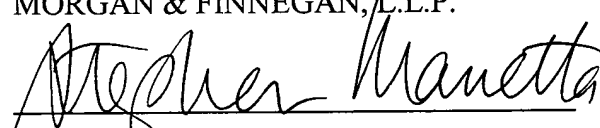
Applicant believes no fees are required for this Amendment and Applicant believes that the petitioned extension of time is sufficient to render this filing timely. However, should an additional extension of time be necessary, such is hereby petitioned, and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 1232-4512.

In the event that a telephone conference would facilitate prosecution, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 21, 2003

By:


Stephen J. Manetta
Registration No. 40,426

Correspondence Address:

Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154
(212) 758-4800 (Telephone)
(212) 751-6849 (Facsimile)